



# House of Representatives

## File No. 802

General Assembly

January Session, 2017

**(Reprint of File No. 14)**

Substitute House Bill No. 6992  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 26, 2017

### **AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) For purposes of this  
2       section and section 2 of this act, (1) "fiduciary duty" means a duty to  
3       act with prudence in the best interests of a consumer with undivided  
4       loyalty to such consumer, and (2) "financial planner" means a person  
5       offering individualized financial planning or investment advice to a  
6       consumer for compensation where such activity is not otherwise  
7       regulated by state or federal law.

8       (b) No financial planner shall, in connection with an agreement with  
9       a consumer to provide financial planning or investment advice for  
10      compensation, use a certificate, professional designation or form of  
11      advertising expressing or implying that such person has special  
12      training, education or experience in advising or serving senior citizens,  
13      unless such person has obtained a certificate, title or designation as  
14      described in section 36b-4 of the general statutes.

15 (c) A financial planner shall disclose to a consumer, upon request,  
16 whether or not such financial planner has a fiduciary duty to such  
17 consumer for each recommendation such financial planner makes to  
18 such consumer.

19 Sec. 2. (NEW) (*Effective from passage*) (a) To the extent practicable, the  
20 Banking Commissioner shall provide on the department's Internet web  
21 site links to educational materials on (1) financial planning and other  
22 designations, including associated prerequisites, and (2) information  
23 on requirements for investment advisers pursuant to chapter 672a of  
24 the general statutes. The Banking Commissioner shall also include on  
25 the department's Internet web site information concerning a  
26 consumer's right to ask for disclosure from financial planners or other  
27 financial planning professionals about fees and compensation as  
28 required under applicable state and federal law.

29 (b) The Department of Banking shall share the information provided  
30 on the department's Internet web site pursuant to subsection (a) of this  
31 section with the Department of Consumer Protection. The Department  
32 of Consumer Protection shall provide such shared information on its  
33 own department's Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes various changes affecting financial planners that have no fiscal impact. The bill also requires the Department of Banking (DOB) and the Department of Consumer Protection (DCP) to post certain information regarding financial planners and consumers' rights and results in no fiscal impact as DOB and DCP update and alter their agency websites as a normal course of operations.

House "A" strikes the underlying bill and replaces it with language that has the fiscal impact described above.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 6992 (as amended by House "A")\******AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.*****SUMMARY**

This bill makes various changes affecting financial planners. It:

1. establishes advertising and disclosure requirements for financial planners who are not otherwise regulated by state or federal law;
2. prohibits these financial planners from expressing or implying special training, education, or experience serving senior citizens unless they meet certain education requirements;
3. requires these financial planners to disclose to consumers, upon request, whether they have a fiduciary duty with regard to each recommendation they make; and
4. requires the departments of banking (DOB) and consumer protection (DCP) to post on their respective websites links to certain information regarding financial planning professionals and consumers' rights.

\*House Amendment "A" replaces the original bill (File 14) and (1) modifies the definition of financial planner; (2) requires DOB, in addition to DCP, to post specified information on its department website; and (3) requires DOB to share the information it posts online with DCP.

EFFECTIVE DATE: Upon passage

## **ADVERTISING REQUIREMENTS**

The bill prohibits financial planners from using, in connection with an agreement to provide financial planning or investment advice for compensation, a certificate, professional designation, or advertisement expressing or implying special training, education, or experience in advising or serving senior citizens without meeting certain education requirements (see BACKGROUND). Existing state law already imposes this prohibition on individuals involved in securities transactions.

Under the bill, a “financial planner” is a person offering individualized financial planning or investment advice to a consumer for compensation who is not otherwise regulated by state or federal law.

## **DOB AND DCP WEBSITES**

The bill requires the DOB commissioner, to the extent practicable, to post on the department’s website links to educational materials on (1) financial planning and other designations, including associated prerequisites, and (2) requirements for investment advisers under the Connecticut Uniform Securities Act.

The banking commissioner must also include on the website information about a consumer’s right to ask financial planners or other financial planning professionals to disclose fees and compensation as required under state and federal law.

The bill also requires the banking department to share the information it posts on its website with DCP, which must then post the information on its website.

## **BACKGROUND**

### ***Educational Requirements for Individuals Advertising Experience with Senior Citizens***

By law, individuals offering, selling, or purchasing securities are prohibited, in connection with an agreement to provide financial

planning or investment advice for compensation, from using a certificate, professional designation, or form of advertising expressing or implying special training, education, or experience in advising or serving senior citizens unless the individual has met certain educational criteria. They must receive a certificate, title, or designation by completing a course of study that:

1. resulted in an academic degree from an accredited higher education institution in a field related to advising or serving senior citizens, as determined by the banking commissioner, or
2. relates to advising or serving senior citizens, as determined by the commissioner, and is provided by an organization accredited by the American National Standards Institute, National Commission for Certifying Agencies, an organization recognized as an accrediting agency by the United States Department of Education, or another organization approved by the commissioner (CGS § 36b-4(c)).

### ***Related State Laws***

Existing law regulates the conduct of many financial advisors. For example, the Connecticut Uniform Securities Act (CGS § 36b-2 et seq.) generally prohibits, in connection with the offer, sale, or purchase of a security, individuals from (1) engaging in fraud or deceit, (2) making untrue or misleading statements, or (3) engaging in a dishonest or unethical practice. It also requires “investment advisors” to disclose certain compensation and fee information. Investment advisors advise others regarding securities transactions for compensation and as part of a regular business.

Additionally, Insurance Department regulations prohibit insurance producers (i.e., agents) from using senior citizen-specific certifications or professional designations to mislead a purchaser when (1) soliciting, selling, or purchasing life insurance or annuities; (2) providing advice about purchasing or selling life insurance or annuities; or (3) issuing reports or analyses on life insurance or annuities (Conn. Agencies

Regs. § 38a-432b-2).

**COMMITTEE ACTION**

Aging Committee

Joint Favorable

Yea 13 Nay 0 (02/14/2017)

Banking Committee

Joint Favorable

Yea 9 Nay 7 (03/21/2017)